

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of Surrendered Certificate  
of:

ADETOKUNBO O. KAMSON,  
  
Petitioner.

OAH No. L2005100471

Case No. 20-2005-166974

DECISION AFTER NON-ADOPTION

This matter was heard on November 16 and December 13, 2005, in Los Angeles, California by David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California. Beneth A. Browne, Deputy Attorney General, represented the Attorney General of California. Adetokunbo O. Kamson (Petitioner) was present and was represented by James Jay Seltzer, Attorney at Law. Evidence was received, the record was closed, and the matter was submitted to the Administrative Law Judge. A proposed decision was issued dated January 12, 2006<sup>1</sup>.

The proposed decision of the administrative law judge was submitted to the Division of Medical Quality, Medical Board of California (hereafter "division"). After due consideration thereof, the division declined to adopt the proposed decision and, on February 10, 2006, issued a Notice of Non-adoption. Both parties submitted written argument and oral argument was heard on May 11, 2006. Pursuant to Government Code section 11517, Panel B of the division hereby makes the following decision and order.

FINDINGS OF FACT

1. Petitioner was first licensed to practice medicine in California in 1987. Petitioner signed the pending petition for reinstatement of his license on April 28, 2005.
2. In July 1997, an Accusation was filed against Petitioner, alleging that Petitioner's license should be disciplined for sexual misconduct with a female patient in

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<sup>1</sup> The proposed decision is erroneously dated January 12, 2005.

1997 and that those acts also amounted to gross negligence, repeated negligent acts, and incompetence.

3. Petitioner signed a Stipulation for Surrender of License on April 1, 1998, which was accepted by the Board effective May 20, 1998, to resolve the Accusation. The Stipulation stated that Petitioner: acknowledged that the allegations, if proven, constituted cause to impose discipline on his license; gave up his right to contest those charges; and surrendered his license. The Stipulation also stated that, if Petitioner filed a petition for reinstatement of the license, the allegations contained in the Accusation "will be deemed to be true, correct and admitted" by Petitioner when the Board determined whether to grant or deny the petition. The Stipulation also recited that Petitioner "denies the allegations at this time."

4. Petitioner filed a petition for reinstatement of revoked license which went to a hearing in March 2001 and resulted in a Proposed Decision by Administrative Law Judge H. Stuart Waxman denying the petition. That Proposed Decision was adopted by the Board, effective June 4, 2001.<sup>2</sup> In that petition and hearing, Petitioner denied that he had engaged in any sexual misconduct with the female patient, acknowledging that he had been wrong only in failing to have a chaperone present when he examined his 17-year-old female patient. Petitioner presented evidence that he had engaged in psychotherapy with J.M. Stubblebine, M.D., to work on boundary issues and his style of doctoring which related to his cultural upbringing (Petitioner is Nigerian) and which was described as "familial," and unlike the "detached professionalism characteristic of American physicians."

In the Proposed Decision, Judge Waxman analyzed the difficulty of Petitioner's position; i.e., admitting the allegations for purposes of settlement yet denying them at the hearing, while trying to show sufficient rehabilitation and cause for reinstatement of his license. In summary, Judge Waxman concluded that, if Petitioner had not engaged in sexual misconduct, the psychotherapy "may be sufficient"; however, if sexual misconduct occurred, "far more attention should be paid to the sexual issues in the case." Judge Waxman noted further that, in connection with the same incident, Petitioner had been convicted of battery (Penal Code section 242). Under the totality of the circumstances, there was insufficient evidence of rehabilitation, and the petition was denied.

5. Petitioner enrolled in the professional boundaries course at the University of California, San Diego Physician Assessment and Clinical Education (PACE) program in May 2002 and completed the three-day course in June 2002. The course has a recommended reading list and an aftercare program in which Petitioner was involved.

6. For purposes of his criminal case, Petitioner had been evaluated in 1997 by Jeffrey Whiting, M.D., a clinical psychologist. In late 2002 or early 2003, Petitioner

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again sought out Dr. Whiting, this time for psychotherapy and rehabilitation.<sup>3</sup> Petitioner's purposes were to address the issue of rehabilitation raised in the denial of his prior petition for reinstatement and to help handle stress.

7. At the present hearing, Petitioner acknowledged that his denials of molesting his patient were lies, both in the prior petition hearing and in his initial psychotherapy and psychological evaluation for purposes of his criminal case. He admits that his physical examination of the patient included more contact with her breasts and vaginal area than was necessary for a proper medical examination, and acknowledged to his present psychotherapist that he had a sexual motive for the contact.

8. Petitioner and Dr. Whiting both testified that Petitioner's acknowledgment of his wrongdoing is linked to his realization of the negative effect that his actions had on his patient, including her feelings of violation, fear and shock. Petitioner has expressed shame and contrition over the incident. Petitioner and Dr. Whiting attribute his ability to acknowledge his wrongdoing as being based in part on his increased sensitivity to the issues due to his work in the PACE professional boundaries course.

9. Petitioner saw Dr. Whiting about two times per month, one hour per session, from May 2003 until Dr. Whiting's report dated August 30, 2004, for a total of 30 sessions. Dr. Whiting stated they continued on this schedule through 2004. As of 2005, the sessions were reduced to one every month or two, due to Petitioner's schedule and because Dr. Whiting believed that the need for therapy had decreased.

In Dr. Whiting's opinion, Petitioner does not fit the profile of a repeat sex offender, and there is little likelihood of recidivism. Dr. Whiting believes that Petitioner has substantially changed and has a clearer appreciation of the proper boundaries to be maintained with his patients.

10. On April 3, 2003, Petitioner had a heated argument with his ex-wife wherein he threatened her with harm. Petitioner was confused about his schedule, and he and his ex-wife both arrived at school to pick up their child. The argument ensued, in the presence of their child. Petitioner was charged with making a terrorist threat. Pursuant to a plea bargain, on May 18, 2004, that charge was dropped and Petitioner was convicted, on his pleas of nolo contendere, of two counts of violating Penal Code section 415, subdivision (2), causing a loud noise. Petitioner was sentenced to complete a one-year domestic violence course and to serve 15 days of community service with CalTRANS.

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<sup>3</sup> There is some conflict in the evidence. Petitioner and Dr. Whiting testified that Petitioner began therapy in late 2002; however, Dr. Whiting's report states their sessions began May 5, 2003.

Petitioner completed his sentence. On May 18, 2005, Petitioner obtained an order, under Penal Code section 1203.4, whereby the verdict of guilty was set aside, a plea of not guilty was entered, and the complaint was dismissed.

11. Petitioner testified that his argument with his wife was the culmination of several stressful factors. Due to the effect of his license revocation, he was experiencing financial problems and was having difficulty making child support payments. The divorce lawyer had been in contact with him earlier that day, applying pressure for the payments. Petitioner had a job prospect/contract that required substantial travel, and he was afraid he would lose the contract. Petitioner did not intend to make any threat, but acknowledges that he can say things that are not appropriate and that he was under a lot of stress at the time. Petitioner appears sincere in his expression of regret over the incident.

12. The Proposed Decision by Judge Waxman noted that Petitioner had earned over 60 continuing education credits in the prior three years. Petitioner continued to earn such credits thereafter, and earned over 100 hours of credit in 2005.

13. Petitioner received his Masters of Business Administration degree, health care executive, from the University of California, Irvine in December 2000. He opened a small internet business from his home distributing healthcare supplies.

About four years ago Petitioner began working for Newport Oncology and Healthcare Medical Corporation, Inc. (NOAH) as a project development and management consultant. NOAH provides services at correctional facilities and extended and long term care facilities, and operates cancer programs, mobile dialysis units, and mobile women's health units.

The medical Director of NOAH, Joshua Atiba, M.D., has known Petitioner since 1981 and considers him a friend. Dr. Atiba testified that Petitioner has been forthcoming with him concerning the incident of sexual misconduct. Dr. Atiba believes that Petitioner has learned from his mistakes, exhibits better judgment, and is diligent and trustworthy. Dr. Atiba is willing to employ Petitioner if his license is reinstated.

14. Petitioner's ex-wife, Patty Kamson, also testified in his support. They were married for 16 years and have three children, ages 18, 16 and 10. Petitioner was a good father, attentive to and involved with his children. He has been current on child support payments, except for a brief period of time. About two years ago Petitioner told her of the incident wherein he molested a patient. Mrs. Kamson stated that her divorce attorney was very aggressive and assertive, the divorce was heated, and the financial situation was very stressful. In her opinion, although Petitioner may not have been truthful with her in the past, he has worked hard on this and is moving forward, and as a result, their interactions have been better. She testified in support because she "is not his enemy," and did not want to make his life difficult.

15. If reinstated, Petitioner wants to work for Dr. Atiba. He is willing to have his work monitored, and he is willing to work under probationary terms including the requirements for psychological evaluation and therapy and a chaperone for female patients.

16. The petition includes letters of support from Dr. Whiting, Dr. Stubblebine and Dr. Abita, as well as four others.

Sogba Bosu, M.D., has known Petitioner since 1986 when he served as Petitioner's mentor in a residency program in pediatrics. He is aware of the surrender of Petitioner's license. Dr. Bosu continues to advise Petitioner, is familiar with his continuing education activities and management degree and consultation, attests that Petitioner has learned from his experience, and recommends that Petitioner's license be reinstated.

Carole Hurvitz, M.D., has known Petitioner since 1984. She is aware of his activities since his license was surrendered, and she recommends that Petitioner's license be reinstated.

Mark Markland is a certified financial planner who began working with Petitioner 15 years ago, and they subsequently became friends. Mr. Markland has observed Petitioner's efforts to rehabilitate and re-educate himself since the surrender of his license, and mentions Petitioner's determination to change and his devotion to his children.

Dennis O'Keefe is an Elder/Leader at the Petitioner's church who has known Petitioner for about eight years. Petitioner has taken courses and recently taught a course there and is active in the men's ministry. Mr. O'Keefe thinks highly of Petitioner's devotion to family and faith, his honesty, and his concern for others.

17. The legal standards applicable to this petition are found in a statute and a regulation.

Business and Professions Code section 2307 provides that the "administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability."

California Code of Regulations, title 16, section 1360.2, states, as relevant here, that the Board shall evaluate the Petitioner's evidence of rehabilitation considering the following criteria: the nature and severity of the acts for which the Petitioner was disciplined; the time that has elapsed since commission of those acts; the total criminal record; the extent to which the Petitioner has complied with any terms

of probation; evidence of expungement of the conviction; and evidence of rehabilitation submitted by the Petitioner.

### CONCLUSIONS OF LAW AND DISCUSSION

1. Cause was established pursuant to Business and Professions Code section 2307 to grant, on probationary terms and conditions, Petitioner's request for reinstatement of his surrendered license, by reason of Factual Findings 1 through 17.

2. In a proceeding to restore a disciplined license, the burden rests on a petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. *Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.

A person seeking reinstatement must present strong proof of rehabilitation and a sufficient showing of rehabilitation to overcome the Board's former adverse determination. *Hippard v. State Bar of California* (1989) 49 Cal.3d 1084, 1092-1093.

The standard of proof is clear and convincing evidence to a reasonable certainty. *Id.*; *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308.

3. Petitioner has sustained this burden or standard of proof. The acts for which Petitioner's license was surrendered occurred eight years ago and were serious violations of Petitioner's duties towards his patient and his profession. Petitioner denied the nature, import and affect of these acts for several years and but now has acknowledged his wrongdoing and demonstrated insight into the circumstances that led to the surrender of his license and has taken responsibility for his actions.

Petitioner has reached this point with the benefit of psychological counseling, spiritual guidance, and coursework in proper professional boundaries. He has submitted evidence of a verifiable record from sources other than himself, of his efforts and success at rehabilitation and expression of regret and remorse. Petitioner has established by clear and convincing evidence that his license should be reinstated at this time, under appropriate terms and conditions.

### ORDER

The petition of Adetokunbo O. Kamson for reinstatement of his revoked license is granted, as follows: The license is reinstated, the reinstated license is revoked, however, the revocation is stayed, and Petitioner's license is placed on probation for ten years upon the following terms and conditions:

### 1. Ethics Course

Within 60 calendar days of the effective date of this Decision, Petitioner shall enroll in a course in ethics, at Petitioner's expense, approved in advance by the Division or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

Petitioner shall submit a certification of successful completion to the Division or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

### 2. Oral and/or Written Examination

Within 60 calendar days of the effective date of this Decision, Petitioner shall take and pass an oral and/or written examination, administered by the Probation Unit. The Division or its designee shall administer the oral and/or written examination in a subject to be designated by the Division or its designee and any oral examination shall be audio tape recorded.

If Petitioner fails the first examination, Petitioner shall be allowed to take and pass a second examination, which may consist of an oral and/or written examination. The waiting period between the first and second examinations shall be at least 90 calendar days.

Failure to pass the required oral and/or written examination within 180 calendar days after the effective date of this Decision is a violation of probation. Petitioner shall pay the costs of all examinations. For purposes of this condition, if Petitioner is required to take and pass a written exam, it shall be either the Special Purpose Examination (SPEX) or an equivalent examination as determined by the Division or its designee.

Petitioner shall not practice medicine until Petitioner has passed the required examination and has been so notified by the Division or its designee in writing. This prohibition shall not bar Petitioner from practicing in a clinical training program approved by the Division or its designee. Petitioner's practice of medicine shall be restricted only to that which is required by the approved training program.

### 3. Psychotherapy

Within 60 calendar days of the effective date of this Decision, Petitioner shall submit to the Division or its designee for prior approval the name and qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Petitioner shall undergo

and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Division or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Division or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Division or its designee. Petitioner shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Petitioner shall have the treating psychotherapist submit quarterly status reports to the Division or its designee. The Division or its designee may require Petitioner to undergo psychiatric evaluations by a Division-appointed board certified psychiatrist.

If, prior to the completion of probation, Petitioner is found to be mentally unfit to resume the practice of medicine without restrictions, the Division shall retain continuing jurisdiction over Petitioner's license and the period of probation shall be extended until the Division determines that Petitioner is mentally fit to resume the practice of medicine without restrictions. Petitioner shall pay the cost of all psychotherapy and psychiatric evaluations.

Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency of psychotherapy, is a violation of probation.

#### 4. Solo Practice

Petitioner is prohibited from engaging in the solo practice of medicine.

#### 5. Work-site Monitor

At any time respondent is working, a physician and surgeon with a current and unrestricted certificate issued by the Board must be present at his work-site and must observe and interact with respondent during respondent's daily practice.

#### 6. Third Party Chaperone

During probation, Petitioner shall have a female third party chaperone present while consulting, examining or treating female patients. Petitioner shall, within 30 calendar days of the effective date of the Decision, submit to the Division or its designee for prior approval name(s) of persons who will act as the third party chaperone. Each third party chaperone shall initial and date each patient medical record at the time the chaperone's services are provided. Each third party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party chaperone.



Petitioner shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the: 1) patient name, address and telephone number; 2) medical record number; and 3) date of service. Petitioner shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Division or its designee, and shall retain the log for the entire term of probation. Failure to maintain a log of all patients requiring a third party chaperone, or to make the log available for immediate inspection and copying on the premises, is a violation of probation.

#### 7. Notification

Prior to engaging in the practice of medicine the Petitioner shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Petitioner, at any other facility where Petitioner engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Petitioner. Petitioner shall submit proof of compliance to the Division or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

#### 8. Supervision of Physician Assistants

During probation, Petitioner is prohibited from supervising physician assistants.

#### 9. Obey All Laws

Petitioner shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

#### 10. Quarterly Declarations

Petitioner shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation. Petitioner shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

#### 11. Probation Unit Compliance

Petitioner shall comply with the Division's probation unit. Petitioner shall, at all times, keep the Division informed of Petitioner's business and residence addresses.

Changes of such addresses shall be immediately communicated in writing to the Division or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Petitioner shall not engage in the practice of medicine in Petitioner's place of residence. Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Petitioner shall immediately inform the Division or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

12. Interview with the Division or its Designee

Petitioner shall be available in person for interviews either at Petitioner's place of business or at the probation unit office, with the Division or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

13. Residing or Practicing Out-of-State

In the event Petitioner should leave the State of California to reside or to practice Petitioner shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding thirty calendar days in which Petitioner is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Division or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Petitioner of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Petitioner's license shall be automatically cancelled if Petitioner's periods of temporary or permanent residence or practice outside California totals two years. However, Petitioner's license shall not be cancelled as long as Petitioner is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

14. Failure to Practice Medicine - California Resident

In the event Petitioner resides in the State of California and for any reason Petitioner stops practicing medicine in California, Petitioner shall notify the Division or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Petitioner of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which Petitioner is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Division or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Petitioner's license shall be automatically cancelled if Petitioner resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

15. Completion of Probation

Petitioner shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon completion successful of probation, Petitioner's certificate shall be fully restored.

16. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Petitioner violates probation in any respect, the Division, after giving Petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Petitioner during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

17. License Surrender

Following the effective date of this Decision, if Petitioner ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Petitioner may request the voluntary surrender of Petitioner's license. The Division reserves the right to evaluate Petitioner's request and to exercise its discretion

whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Petitioner shall within 15 calendar days deliver Petitioner's wallet and wall certificate to the Division or its designee and Petitioner shall no longer practice medicine. Petitioner will no longer be subject to the terms and conditions of probation and the surrender of Petitioner's license shall be deemed disciplinary action.

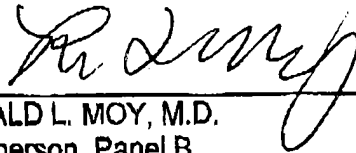
If Petitioner re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

18. Probation Monitoring Costs

Petitioner shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Division, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Division or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

This decision shall become effective on the 10th day of July, 2006.

IT IS SO ORDERED this 9th day of June, 2006.



RONALD L. MOY, M.D.  
Chairperson, Panel B  
Division of Medical Quality  
Medical Board of California

**BEFORE THE  
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MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for )  
Reinstatement of Surrendered Certificate of: )

**ADETOKUNBO O. KAMSON** )

Physician's & Surgeon's )  
Certificate No.: A - 43596 )

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Petitioner )

Case No.: 20-2005-166974

OAH No.: L2005100471

**NOTICE OF NON-ADOPTION  
OF PROPOSED DECISION**

The Proposed Decision of the Administrative Law Judge in the above-entitled matter has been **non-adopted**. The Medical Board of California, Division of Medical Quality, will decide the case upon the record, including the transcript and exhibits of the hearing, and upon such written argument as the parties may wish to submit, including in particular, argument directed to the question of whether the proposed penalty should be modified. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

To order a copy of the transcript, please contact Karen Napolitano, Transcript Coordinator, Kennedy Court Reporters, Inc. at (714) 835-0366., .

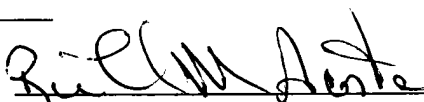
To order a copy of the exhibits, please contact the Transcript Clerk, Office of Administrative Hearings, 320 West Fourth Street, Ste 630, Los Angeles CA 90013. Telephone No. (213) 576-7200.

In addition to written argument, oral argument will be scheduled if any party files with the Division within 20 days from the date of this notice a written request for oral argument. If a timely request is filed, the Division will serve all parties with written notice of the time, date and place for oral argument. Oral argument shall be directed only to the question of whether the proposed penalty should be modified. Please do not attach to your written argument any documents that are not part of the record as they cannot be considered by the Panel.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Division. The mailing address of the Division is as follows:

Division of Medical Quality  
MEDICAL BOARD OF CALIFORNIA  
1426 Howe Avenue, Suite 54  
Sacramento, CA 95825-3236  
(916) 263-8906

Dated: February 10, 2006

  
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Richard M. Acosta  
Enforcement Legal Unit

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
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STATE OF CALIFORNIA

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PROPOSED DECISION

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9. Petitioner saw Dr. Whiting about two times per month, one hour per session, from May 2003 until Dr. Whiting's report dated August 30, 2004, for a total of 30 sessions. Dr. Whiting stated they continued on this schedule through 2004. As of 2005, the sessions were reduced to one every month or two, due to Petitioner's schedule and because Dr. Whiting believed that the need for therapy had decreased.

In Dr. Whiting's opinion, Petitioner does not fit the profile of a repeat sex offender, and there is little likelihood of recidivism. Dr. Whiting believes that Petitioner has substantially changed and has a clearer appreciation of the proper boundaries to be maintained with his patients.

10. On April 3, 2003, Petitioner had a heated argument with his ex-wife wherein he threatened her with harm. Petitioner was confused about his schedule, and he and his ex-wife both arrived at school to pick up their child. The argument ensued, in the presence of their child. Petitioner was charged with making a terrorist threat. Pursuant to a plea bargain, on May 18, 2004, that charge was dropped and Petitioner was convicted, on his pleas of nolo contendere, of two counts of violating Penal Code section 415, subdivision (2), causing a loud noise. Petitioner was sentenced to complete a one-year domestic violence course and to serve 15 days of community service with CalTRANS.

Petitioner completed his sentence. On May 18, 2005, Petitioner obtained an order, under Penal Code section 1203.4, whereby the verdict of guilty was set aside, a plea of not guilty was entered, and the complaint was dismissed.

11. Petitioner testified that his argument with his wife was the culmination of several stressful factors. Due to the effect of his license revocation, he was experiencing financial problems and was having difficulty making child support payments. The divorce lawyer had been in contact with him earlier that day, applying pressure for the payments. Petitioner had



a job prospect/contract that required substantial travel, and he was afraid he would lose the contract. Petitioner did not intend to make any threat, but acknowledges that he can say things that are not appropriate and that he was under a lot of stress at the time. Petitioner appears sincere in his expression of regret over the incident.

12. The Proposed Decision by Judge Waxman noted that Petitioner had earned over 60 continuing education credits in the prior three years. Petitioner continued to earn such credits thereafter, and earned over 100 hours of credit in 2005.

13. Petitioner received his Masters of Business Administration degree, health care executive, from the University of California, Irvine in December 2000. He opened a small internet business from his home distributing healthcare supplies.

About four years ago Petitioner began working for Newport Oncology and Healthcare Medical Corporation, Inc. (NOAH) as a project development and management consultant. NOAH provides services at correctional facilities and extended and long term care facilities, and operates cancer programs, mobile dialysis units, and mobile women's health units.

The medical Director of NOAH, Joshua Atiba, M.D., has known Petitioner since 1981 and considers him a friend. Dr. Atiba testified that Petitioner has been forthcoming with him concerning the incident of sexual misconduct. Dr. Atiba believes that Petitioner has learned from his mistakes, exhibits better judgment, and is diligent and trustworthy. Dr. Atiba is willing to employ Petitioner if his license is reinstated.

14. Petitioner's ex-wife, Patty Kamson, also testified in his support. They were married for 16 years and have three children, ages 18, 16 and 10. Petitioner was a good father, attentive to and involved with his children. He has been current on child support payments, except for a brief period of time. About two years ago Petitioner told her of the incident wherein he molested a patient. Mrs. Kamson stated that her divorce attorney was very aggressive and assertive, the divorce was heated, and the financial situation was very stressful. In her opinion, although Petitioner may not have been truthful with her in the past, he has worked hard on this and is moving forward, and as a result, their interactions have been better. She testified in support because she "is not his enemy," and did not want to make his life difficult.

15. If reinstated, Petitioner wants to work for Dr. Atiba. He is willing to have his work monitored, and he is willing to work under probationary terms including the requirements for psychological evaluation and therapy and a chaperone for female patients.

16. The petition includes letters of support from Dr. Whiting, Dr. Stubblebine and Dr. Abita, as well as four others.

Sogba Bosu, M.D., has known Petitioner since 1986 when he served as Petitioner's mentor in a residency program in pediatrics. He is aware of the surrender of Petitioner's license. Dr. Bosu continues to advise Petitioner, is familiar with his continuing education activities and management degree and consultation, attests that Petitioner has learned from his experience, and recommends that Petitioner's license be reinstated.

Carole Hurvitz, M.D., has known Petitioner since 1984. She is aware of his activities since his license was surrendered, and she recommends that Petitioner's license be reinstated.

Mark Markland is a certified financial planner who began working with Petitioner 15 years ago, and they subsequently became friends. Mr. Markland has observed Petitioner's efforts to rehabilitate and re-educate himself since the surrender of his license, and mentions Petitioner's determination to change and his devotion to his children.

Dennis O'Keefe is an Elder/Leader at the Petitioner's church who has known Petitioner for about eight years. Petitioner has taken courses and recently taught a course there and is active in the men's ministry. Mr. O'Keefe thinks highly of Petitioner's devotion to family and faith, his honesty, and his concern for others.

17. The legal standards applicable to this petition are found in a statute and a regulation.

Business and Professions Code section 2307 provides that the "administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability."

California Code of Regulations, title 16, section 1360.2, states, as relevant here, that the Board shall evaluate the Petitioner's evidence of rehabilitation considering the following criteria: the nature and severity of the acts for which the Petitioner was disciplined; the time that has elapsed since commission of those acts; the total criminal record; the extent to which the Petitioner has complied with any terms of probation; evidence of expungement of the conviction; and evidence of rehabilitation submitted by the Petitioner.

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## CONCLUSIONS OF LAW AND DISCUSSION

1. Cause was established pursuant to Business and Professions Code section 2307 to grant, on probationary terms and conditions, Petitioner's request for reinstatement of his surrendered license, by reason of Factual Findings 1 through 17.

2. In a proceeding to restore a disciplined license, the burden rests on a petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. *Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.

A person seeking reinstatement must present strong proof of rehabilitation and a sufficient showing of rehabilitation to overcome the Board's former adverse determination. *Hippard v. State Bar of California* (1989) 49 Cal.3d 1084, 1092-1093.

The standard of proof is clear and convincing evidence to a reasonable certainty. *Id.*; *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308.

3. Petitioner has sustained this burden or standard of proof. The acts for which Petitioner's license was surrendered occurred eight years ago and were serious violations of Petitioner's duties towards his patient and his profession. Petitioner denied the nature, import and affect of these acts for several years and but now has acknowledged his wrongdoing and demonstrated insight into the circumstances that led to the surrender of his license and has taken responsibility for his actions.

Petitioner has reached this point with the benefit of psychological counseling, spiritual guidance, and coursework in proper professional boundaries. He has submitted evidence of a verifiable record from sources other than himself, of his efforts and success at rehabilitation and expression of regret and remorse. Petitioner has established by clear and convincing evidence that his license should be reinstated at this time, under appropriate terms and conditions.

## ORDER

The petition of Adetokunbo O. Kamson for reinstatement of his revoked license is granted, as follows: The license is reinstated; the reinstated license is revoked; however, the revocation is stayed, and Petitioner's license is placed on probation for five years upon the following terms and conditions:

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### 1. Ethics Course

Within 60 calendar days of the effective date of this Decision, Petitioner shall enroll in a course in ethics, at Petitioner's expense, approved in advance by the Division or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

Petitioner shall submit a certification of successful completion to the Division or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

### 2. Oral and/or Written Examination

Within 60 calendar days of the effective date of this Decision, Petitioner shall take and pass an oral and/or written examination, administered by the Probation Unit. The Division or its designee shall administer the oral and/or written examination in a subject to be designated by the Division or its designee and any oral examination shall be audio tape recorded.

If Petitioner fails the first examination, Petitioner shall be allowed to take and pass a second examination, which may consist of an oral and/or written examination. The waiting period between the first and second examinations shall be at least 90 calendar days.

Failure to pass the required oral and/or written examination within 180 calendar days after the effective date of this Decision is a violation of probation. Petitioner shall pay the costs of all examinations. For purposes of this condition, if Petitioner is required to take and pass a written exam, it shall be either the Special Purpose Examination (SPEX) or an equivalent examination as determined by the Division or its designee.

Petitioner shall not practice medicine until Petitioner has passed the required examination and has been so notified by the Division or its designee in writing. This prohibition shall not bar Petitioner from practicing in a clinical training program approved by the Division or its designee. Petitioner's practice of medicine shall be restricted only to that which is required by the approved training program.

### 3. Psychotherapy

Within 60 calendar days of the effective date of this Decision, Petitioner shall submit to the Division or its designee for prior approval the name and qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Petitioner shall undergo and continue psychotherapy

treatment, including any modifications to the frequency of psychotherapy, until the Division or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Division or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Division or its designee. Petitioner shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Petitioner shall have the treating psychotherapist submit quarterly status reports to the Division or its designee. The Division or its designee may require Petitioner to undergo psychiatric evaluations by a Division-appointed board certified psychiatrist.

If, prior to the completion of probation, Petitioner is found to be mentally unfit to resume the practice of medicine without restrictions, the Division shall retain continuing jurisdiction over Petitioner's license and the period of probation shall be extended until the Division determines that Petitioner is mentally fit to resume the practice of medicine without restrictions. Petitioner shall pay the cost of all psychotherapy and psychiatric evaluations.

Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency of psychotherapy, is a violation of probation.

#### 4. Solo Practice

Petitioner is prohibited from engaging in the solo practice of medicine.

#### 5. Third Party Chaperone

During probation, Petitioner shall have a third party chaperone present while consulting, examining or treating female patients. Petitioner shall, within 30 calendar days of the effective date of the Decision, submit to the Division or its designee for prior approval name(s) of persons who will act as the third party chaperone. Each third party chaperone shall initial and date each patient medical record at the time the chaperone's services are provided. Each third party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party chaperone.

Petitioner shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the: 1) patient name, address and telephone number; 2) medical record number; and 3) date of service. Petitioner shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Division or its designee, and shall retain the log for the entire term of probation. Failure to maintain a log of all patients requiring a third party chaperone, or to make the log available for immediate inspection and copying on the premises, is a violation of probation.

## 6. Notification

Prior to engaging in the practice of medicine the Petitioner shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Petitioner, at any other facility where Petitioner engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Petitioner. Petitioner shall submit proof of compliance to the Division or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

## 7. Supervision of Physician Assistants

During probation, Petitioner is prohibited from supervising physician assistants.

## 8. Obey All Laws

Petitioner shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

## 9. Quarterly Declarations

Petitioner shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation. Petitioner shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

## 10. Probation Unit Compliance

Petitioner shall comply with the Division's probation unit. Petitioner shall, at all times, keep the Division informed of Petitioner's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Division or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Petitioner shall not engage in the practice of medicine in Petitioner's place of residence. Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Petitioner shall immediately inform the Division or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

11. Interview with the Division or it's Designee

Petitioner shall be available in person for interviews either at Petitioner's place of business or at the probation unit office, with the Division or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

12. Residing or Practicing Out-of-State

In the event Petitioner should leave the State of California to reside or to practice Petitioner shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding thirty calendar days in which Petitioner is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Division or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Petitioner of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Petitioner's license shall be automatically cancelled if Petitioner's periods of temporary or permanent residence or practice outside California totals two years. However, Petitioner's license shall not be cancelled as long as Petitioner is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

13. Failure to Practice Medicine - California Resident

In the event Petitioner resides in the State of California and for any reason Petitioner stops practicing medicine in California, Petitioner shall notify the Division or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the

reduction of the probationary term and does not relieve Petitioner of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which Petitioner is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Division or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Petitioner's license shall be automatically cancelled if Petitioner resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

#### 14. Completion of Probation

Petitioner shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon completion successful of probation, Petitioner's certificate shall be fully restored.

#### 15. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Petitioner violates probation in any respect, the Division, after giving Petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Petitioner during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

#### 16. License Surrender

Following the effective date of this Decision, if Petitioner ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Petitioner may request the voluntary surrender of Petitioner's license. The Division reserves the right to evaluate Petitioner's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Petitioner shall within 15 calendar days deliver Petitioner's wallet and wall certificate to the Division or its designee and Petitioner shall no longer practice medicine. Petitioner will no longer be subject to the terms and conditions of probation and the surrender of Petitioner's license shall be deemed disciplinary action.



If Petitioner re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. Probation Monitoring Costs

Petitioner shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Division, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Division or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

DATED: January 12, 2005.

A handwritten signature in black ink, reading "David B. Rosenman". The signature is fluid and cursive, with the first name "David" being more prominent than the last name "Rosenman".

DAVID B. ROSENMAN  
Administrative Law Judge  
Office of Administrative Hearings